

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

CrI.MC.No. 2369 of 2007()

AGAINST THE ORDER DATED 18/07/2007 IN CRMP 3348 2007 IN
CRA.473/2007 of SESSIONS COURT, ERNAKULAM
.....

PETITIONER/APPELLANT:

M.ANDRU, S/O.MOOVANCHARI ALI,
AGED 38 YEARS, MOOVACHARI HOUSE,
NADAPURAM, KOZHIKODE DISTRICT.

BY ADV. SRI.K.MUHAMMED SALAHUDHEEN

RESPONDENTS/COMPLAINANT & STATE:

1. DEPUTY COMMISSIONER,
AIR CUSTOMS, KARIPPOOR.
2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 24/07/2007 ALONG WITH CR.MC NOS.2370 & CONNECTED
CASES, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2369,2370,2371,2372,
2373 & 2374 of 2007

Dated this the 24th day of July 2007

O R D E R

The petitioners have been found guilty, convicted and sentenced in prosecutions under Section 135 of the Customs Act. They have preferred appeals against the verdict of guilty, conviction and sentence. In the appeals, the learned Sessions Judge has directed suspension of the sentence inter alia on condition that the petitioners must deposit half the amount of fine (Rs.50,000/- is the fine amount and hence Rs.25,000/- has to be deposited). No specific period of time has been granted for payment of the said amount of Rs.25,000/-. The petitioners have come before this court complaining about the onerous nature of the conditions imposed. The petitioners are unable to raise the requisite amount immediately. No time has been granted to the petitioners to pay the amount. At any rate, the petitioners who are impecunious shall not be able to pay the said amount of Rs.25,000/-. In these circumstances, it is prayed that the said condition may be set aside and suspension may be directed without any condition as to deposit of any portion of the fine amount.

2. I have considered the submissions made. The appellate court does have jurisdictional competence to direct payment of part of

the fine amount as condition for suspension of sentence. But I find merit in the submission by the learned counsel for the petitioners that time has not been granted to the petitioners for making payment of such amount. I am satisfied, in these circumstances that appropriate directions can be issued in favour of the petitioners.

3. In the result, these Criminal Miscellaneous Cases are allowed. The sentence imposed on the petitioners shall stand suspended on the following terms and conditions:

i) They shall, on or before 2/8/2007, deposit in each case the amount of Rs.10,000/- (Rupees ten thousand only) each before the learned Magistrate.

ii) The petitioners shall deposit balance amount of Rs.15,000/- (Rupees fifteen thousand only) each within a further period of two months from that date. If the petitioners are unable to deposit such balance amount, the petitioners may apply for expeditious disposal of the appeals on or before 2/8/2007, in which event, the learned Sessions Judge shall dispose of the appeals themselves within a further period of two months.

(R.BASANT, JUDGE)

jsr

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PA to Judge

Crl.M.C.Nos.2369,2370,2371
2372,2373,2374/07

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Crl.M.C.Nos.2369,2370,2371
2372,2373,2374/07

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R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007